D.B. CIVIL WRIT PETITION NO. 2032/2004
(Yusuf & Ors. Vs. State of Rajasthan & Ors.)

DATE OF ORDER :21.03.2005

HON'BLE MR. JUSTICE N.N.MATHUR
HON'BLE MR. JUSTICE MANAK MOHTA

Mr. S.L.Jain for the petitioners.
Mr. Kailash Joshi for respondents.
Mr. O.P.Boob, Additional Government Advocate.

In the instant petition filed under the label of Public Interest Litigation, a direction has been sought to quash public notice issued vide Annexure-2 for auction of the shops by the respondent Municipal Board, Nimbahera.

It is averred that a referral hospital situated at Nawabganj Chittorigate was shifted to a new location on Udaipur Road near Panchayat Samiti Bhavan. The grievance of the petitioners pertains to the construction of 19 shops by Swami Vivekanand Referral Chikitsalaya Vikas Samiti in the hospital premises. The Municipal Board had issued a public notice for auction of the shops. It is submitted that the shops situated in the hospital are meant only for medical, canteen, general merchandise purposes. If these shops are auctioned for all purposes, then the peace of the hospital will be jeopardized and the miscreants elements will disturb the peace of the hospital causing inconvenience to the patients, their attendants and the medical staff.

A reply to the writ petition has been filed. Per contra, it is submitted that the instant Public Interest Litigation is a proxy litigation. The petitioners herein Yusuf, Hasham and Hikmichand are daily rated workers and they have nothing to do with the public interest. The petition has been filed at the instance of local shop keepers, who apprehends adverse effect on their business, if more shops are allowed to run in the area. The respondents have placed on record the site plan, which shows that the shops are being constructed not inside the hospital but outside the hospital. It is further submitted that the construction of shops will extend the facilities to the patients and their attendants.

Having heard learned counsel for the parties and perused the pleadings, we are in agreement with the contention raised by the respondents that the instant petition is a proxy litigation. The petition is based on a false averment that the shops are being constructed inside the hospital. The site plan (Annexure-R/6/1) clearly shows that the shops are being constructed outside the hospital. We have also seen the signatures of the petitioners on 'vakalatnama' and on the writ petition. This verifies the allegation that the petitioners are not much literate persons. There appears to be substance that the petitioners have nothing to do with the present Public Interest Litigation. They are casual labourers. The persons interested have planted

them just for the sake of filing a petition under the label of Public Interest Litigation.

Accordingly, the writ petition stands dismissed. We are not levelling any cost as the petitioners appear to be poor persons and perhaps they have no knowledge of the instant petition and the persons interested have obtain their signatures.

(MANAK MOHTA),J. **(N.N.MATHUR),J.**

Msr/-